UNITED NATIONS

E/NL. 1992/45-47
15 January 1993

ENGLISH AND SPANISH ONLY
ORIGINAL: SPANISH

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

PERU

Communicated by the Government of Peru

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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A STATE OF EMERGENCY IS DECLARED AT ALL AIRPORTS IN THE HUALLAGA ZONE AND OTHER COCA-GROWING AREAS

DECREE LAW NO. 25426

THE PRESIDENT OF THE REPUBLIC,

WHEREAS:

The Government of National Emergency and Reconstruction,

With the concurring vote of the Council of Ministers,

Has passed the following Decree Law:

Article 1. A state of emergency is hereby declared at all airports in the Huallaga Zone and other coca-growing areas.

Article 2. From today, the Peruvian Air Force shall take control of all airports in areas where there are coca plantations, assigning responsibility for their security to the appropriate military and police commands.

Article 3. The Peruvian Air Force shall proceed to destroy clandestine landing strips, using appropriate means.

Article 4. Peruvian and foreign aircraft flying over the airspace of these areas shall be intercepted by the Peruvian Air Force in order to establish their identity, the purpose of the flight and their final destination. If an aircraft intercepted refuses to provide the information requested or to comply with the instructions of the air authority, it will be liable to appropriate interdictory action, including shooting down.

Article 5. From today, all commercial airlines operating in these areas shall be required to register with the appropriate military and police authorities in the areas. If they do not do so within the periods to be fixed in due course, they shall lose their operating licences, apart from being liable to the pecuniary penalties laid down in the Regulations.

Article 6. The authorities responsible for the control of the airports in coca-growing areas shall keep a daily log, in which they shall enter:

(a) A record of the registration number of each aircraft, its characteristics and the reason for its flight, whether incoming or outgoing;

(b) The names of the pilot, crew and passengers if any;

(c) A record of the freight carried, indicating its weight, characteristics, contents, and the names and addresses of the consignor and consignee;

(d) A statement as to whether any valuables (money, jewellery, etc.) are being carried, specifying their origin, amount and denominations and the names of the person carrying them and of the consignee if any.

The record in question shall have the status of an official report and shall be signed by the authority responsible for the airport, the pilot of the aircraft and the senior civilian official, who shall be jointly responsible for the content and accuracy of the particulars it contains.

Article 7. This Decree Law shall enter into force on the day following its publication in the official gazette El Peruano.

Done at Government House, Lima, on the ninth day of April one thousand nine hundred and ninety-two.

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

[...]

ACCORDINGLY:

I hereby order that it shall be published and put into effect.

Lima, on the ninth day of April one thousand nine hundred and ninety-two.

[...]

E/NL.1992/46

OFFICERS OF THE ARMED FORCES AND POLICE FORCE WHATEVER THEIR RANK, WHO ARE APPOINTED TO SERVE IN THE HUALLAGA ZONE AND OTHER COCA-GROWING AREAS, WILL HAVE TO MAKE A SWORN STATEMENT OF THEIR ASSETS AND INCOME AT THE BEGINNING AND END OF THEIR PERIOD OF DUTY

DECREE LAW NO. 25427

THE PRESIDENT OF THE REPUBLIC,

WHEREAS:

The Government of National Emergency and Reconstruction,

With the concurring vote of the Council of Ministers,

Has passed the following Decree Law:

Article 1. Officers of the armed forces or national police of Peru, whatever their rank, who are appointed to serve in the Huallaga Zone and other coca-growing areas will be required to make a sworn statement of their assets and income at the beginning and end of their period of duty, being liable to the corresponding penalties if the information declared contains any wilful misstatements or omissions.

Article 2. The Morality Offices of the respective Institutes of the Armed Forces and National Police of Peru shall periodically assess changes in the property status of the officers making the declarations and their nearest relations and in their external signs of wealth.

Article 3. This Decree Law shall come into force on the day following its publication in the official gazette El Peruano.

Done at Government House, Lima, on the ninth day of April one thousand nine hundred and ninety-two.

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

[...]

ACCORDINGLY:

I hereby order that it shall be published and put into effect.

Lima, on the ninth day of April one thousand nine hundred and ninety-two.

[...]

E/NL.1992/47

CHEMICAL PRODUCTS AND INPUTS DIRECTLY OR INDIRECTLY INTENDED FOR THE PREPARATION OF BASIC COCA PASTE, WASHED PASTE AND COCAINE HYDROCHLORATE WILL BE SUBJECT TO CONTROL AND INSPECTION

DECREE LAW NO. 25623

THE PRESIDENT OF THE REPUBLIC,

WHEREAS:

The Government of National Emergency and Reconstruction,

With the concurring vote of the Council of Ministers,

Has passed the following Decree Law:

Article 1. Chemical products and inputs directly or indirectly intended for the production of basic coca paste, washed paste and cocaine hydrochlorate shall be subject to control and inspection in respect of their production, import, export, marketing, transport, distribution, possession, use and processing, without prejudice to the provisions of other legislation on the matter, as part of the anti-drugs policy and with a view to the imposition of appropriate penalties on persons who fail to comply with the provisions of this Decree Law.

Article 2. The chemical products or inputs subject to control and inspection, however they may be described and presented, shall be:

- Sulphuric acid;
- Acetone;
- Hydrochloric acid;
- Benzene;
- Sodium carbonate;
- Potassium carbonate;
- Ethyl and sulphuric ether;
- Sodium hypochlorite;
- Kerosene;
- Methyl ethyl ketone;
- Potassium permanganate;
- Sodium sulphate;
- Toluene.

Items may be added to or dropped from this list by a Supreme Decree, on the proposal of the Ministry of Industry, Internal Commerce, Tourism and Integration and in coordination with the Ministry of the Interior.

Article 3. Manufacturers, importers, exporters, carriers, wholesalers and retailers of chemical products and inputs covered by article 2 shall be obliged to keep a special sales register, in which they shall enter every day the invoice number, date of sale, quantity in kilograms or litres of the input or product sold, the first names and surname or corporate name of the purchaser, whether an individual or body corporate, number of the tax book, commercial and actual domicile, the place where the goods were delivered and the first names and surnames of the persons receiving the inputs.

The users, whether individuals or bodies corporate, shall in turn be required to keep a special register of description of use.

Article 4. Enterprises set up to manufacture, process and repackage the chemical products and inputs referred to in article 2 shall be required, as a prerequisite for obtaining a licence to operate, to have their installations and installed capacity verified, which will be done by the specialized agency of the Ministry of Industry, Internal Commerce, Tourism and Integration.

Article 5. In addition to the special sales register referred to in article 43 of Decree Law No. 22095, manufacturers of the chemical products and inputs listed in article 2 of this Decree Law shall be required to keep a special production register, which shall be duly attested and shall contain daily particulars of the raw materials or inputs required for the production of the goods and the quantities of those goods produced. The special register shall also record the origin of these inputs and raw materials. By a ministerial decision, the Minister of Industry, Internal Commerce, Tourism and Integration may specify additional information to be recorded in the special production register.

Article 6. Acetone, sodium hypochlorite, known commercially as lye, and hydrochloric acid, known commercially as muriatic acid, shall be sold in retail establishments in packages complying with the existing regulations and in units of up to 30 cm^3 of acetone and up to 1,000 cm^3 of hydrochloric or muriatic acid and sodium hypochlorite or lye.

Sales of up to one unit per person of any of these products shall not need to be recorded in the special sales register; on the other hand, special bills shall be used for this purpose with their own numbering and the other provisions applicable to the sale of goods shall be complied with.

Article 7. Every month, producers, manufacturers, importers, exporters, wholesalers, retailers and users shall make a sworn declaration to the specialized agency of the Ministry of Industry, Internal Commerce, Tourism and Integration of the movements that have taken place in the register referred to in article 3. This information shall be submitted within 10 working days from the end of each month directly to the headquarters of the agency or to the police anti-drug units in the provinces, which, on their own responsibility, shall

undertake to check that the information supplied is correct. If it is not, they shall immediately report the fact to the appropriate authority for application of the penalties provided for in article 11 of this Decree Law.

Any official or police officer who fails to comply with the provisions of this article shall be punished in accordance with article 11 (c) of this Decree Law.

Article 8. Manufacturers of chemical products or inputs listed in article 2 shall report the amounts they use and their origin or source.

Similarly, enterprises providing services for the storage of chemical inputs on behalf of third parties shall be required to report incoming and outgoing movements of such chemical products or inputs, specifying the owners.

In either case, the information in question shall be submitted in Lima and Callao within 10 working days from the end of each month directly to the General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration and to the police anti-drug units in the provinces, in accordance with the provisions of the previous article.

Article 9. In coca-growing areas, the political or military political authority, as the case may be, shall be required, on its responsibility, to make periodic assessments of the amount of kerosene the population can consume and the amounts entering the areas under its jurisdiction. If it finds any significant difference between the two, it shall immediately inform the authorities concerned so that they can take the appropriate action.

Article 10. The following shall constitute violations of this Decree Law:

(a) Failing to enter in the special sales register all the information that is specified herein or that may be further required through a ministerial decision by the General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration, or recording it inaccurately, failing to supply the information referred to in article 7 within the specified time-limit, omitting items or submitting inaccurate information;

(b) Starting production and repackaging of the chemical inputs or products subject to control and inspection before the verification referred to in article 4 has been carried out;

(c) Failing to supply the information referred to in article 8 within the specified time-limit, omitting items or providing inaccurate or incomplete information;

(d) Failing to comply with the provisions of article 7 concerning verification, or, in the case of the officials and police officers concerned, to report any irregularities found promptly to the appropriate authority.

Article 11. The General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration shall be the administrative agency for the application, by means of directoral decisions, of the penalties referred to in this article, without prejudice to the provisions of article 75 of Decree Law No. 22095. The penalties shall be as follows:

(a) A fine equal to five tax reference units in the case of violations covered by article 10 (a) of this Decree Law;

(b) A fine equal to eight tax reference units in the case of the violations covered by article 10 (b) and (c) of this Decree Law.

The tax reference unit used shall be the one applicable at the time when the violation was committed;

(c) Dismissal and criminal charges for an offence against the judicial function in the case of officials and police officers covered by article 10 (d) of this Decree Law.

Article 12. Persons who have committed the violations specified in article 10 (a), (b) and (c) of this Decree Law and wilfully reoffend, shall, without prejudice to the permanent closure of the establishment and application of the appropriate fine, be regarded as participants in the commission of the offence of illicit drug-trafficking, for which reason the administrative authority concerned shall report the matter to the Government Procurator's office, which shall proceed in accordance with the law.

Article 13. Once the directoral decision for the application of the penalties covered by the previous articles has been adopted and made final, the Bank of the Nation shall proceed in accordance with Decree Law No. 17355. An appeal against the administrative decision before the judicial authorities shall not interfere with enforced collection of the fine imposed, unless the person on whom it is imposed provides a bank guarantee to the entire satisfaction of the General Office for the Supervision of Chemical Inputs and Supervised

Products of the Ministry of Industry, Internal Commerce, Tourism and Integration for the full amount of the penalty.

The proceeds from fines imposed under this Decree Law shall constitute income belonging to the Ministry of the Interior and the Ministry of Industry, Internal Commerce, Tourism and Integration in the proportion of 60 per cent and 40 per cent respectively.

Article 14. The National Customs Service shall keep a special register of imports and exports of the products listed in article 2 of this Decree Law by enterprises possessing prior authorization from the General Office of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration.

Article 15. The National Police of Peru, in conjunction with a representative of the Government Procurator's office, shall be responsible for monitoring the production, marketing, import, export, transport and use of the chemical products or inputs mentioned in article 2 at the national level. For this purpose, in Lima and Callao, the General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration and the National Customs Service shall supply the information specified in article 7 to the Anti-Drugs Directorate of the National Police of Peru every month.

In the rest of the country, this information shall be submitted to the police anti-drug units concerned.

Article 16. The National Police of Peru, through the Anti-Drug Directorate (DIRANDRO) in Lima and Callao and the police anti-drugs units in the rest of the Republic, in making final verification of the use of chemical products or inputs referred to in article 2 with producers, manufacturers, importers, exporters, traders, distributors and/or users shall be required to act in conjunction with a representative of the Government Procurator's office for the purposes of checking the documentation supporting the legal constitution of the enterprise and/or establishment and the documents relating to individuals, the use of the product under inspection, and the persons responsible for acquisition and physical installation. Likewise, the National Police of Peru shall verify that the transport of supervised chemical inputs is carried out with invoices or consignment notes (originals) giving the corporate name, tax book, sales register, date and number, name and address of the consignee, place of origin and destination, nature and quantity of the product expressed in kilograms or litres, name and identity documents of the carrier and registration number of the vehicle. In both cases, at the end of the proceedings, a "verification report" shall be drawn up which will serve for the purchase and/or transport of the chemical inputs in question.

Article 17. When in the course of operations carried out by the Anti-Drug Directorate of the National Police of Peru, chemical products and inputs are seized which it would be impossible to move without the likelihood of seriously endangering personal safety, the Directorate shall proceed to destroy them, taking the necessary precautions and drawing up a report on their destruction with the obligatory participation of a representative of the Government Procurator's office.

Article 18. Chemical products and inputs seized shall be deposited with the Drug Control Executive Office (OFECOD) and may be sold for use by the country's industry after evaluation, verification and authorization by the General Office for Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration. The proceeds from such sales shall constitute income belonging to the Ministry of the Interior.

Article 19. The Coordination Department for the Control of Chemical Inputs and Supervised Products is hereby set up within the Ministry of Industry, Internal Commerce, Tourism and Integration. This department, in conjunction with the Government Procurator's office, shall be responsible for checking the use of raw materials or chemical inputs which could be diverted to the processing of basic coca paste, washed paste and cocaine hydrochlorate, and shall be staffed by personnel from DIRANDRO-PNP and the General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration. The regulations governing the organization and functions of this department shall be approved by the Minister responsible in a ministerial decision within 60 days of the adoption of this Decree Law.

Article 20. The functions of the General Office for the Supervision of Chemical Inputs and Supervised Products of the Ministry of Industry, Internal Commerce, Tourism and Integration, set up by Supreme Decree No. 029-91-ICTI/D.M of 20 October 1991, are hereby extended to include the right to issue directoral decisions for the implementation of this Decree Law.

Article 21. The Ministry of Industry, Internal Commerce, Tourism and Integration, in coordination with the Ministry of the Interior, shall draw up the draft regulations relating to this Decree Law within a maximum of 60 calendar days from the entry into force of this Decree Law.

Article 22. Supreme Decree No. 059-82-EFC, together with the amendments and additions thereto, and any legal provisions that conflict with this Decree Law are hereby repealed.

Article 23. This Decree Law shall enter into force on the day following its publication in the official gazette El Peruano.

Done at Government House, Lima, on the twenty-first day of July one thousand nine hundred and ninety-two.

ALBERTO FUJIMORI FUJIMORI
Constitutional President of the Republic

[...]

ACCORDINGLY:

I hereby order that it shall be published and put into effect.

Lima, 21 July 1992.

[...]